

Table A – Part C

Issues Identified in the State Performance Plan

SPP Indicator	Issue	Required Action
<p><b>Indicator 1:</b> Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner. (20 USC 1416(a)(3)(A) and 1442)</p>	<p><b>Noncompliance:</b> The State reported a 68.8% level of compliance for Indicator #1 in the SPP, specifically the requirement at 34 CFR §§303.340(c), 303.342(e), and 303.344(f)(1), that all eligible children with IFSPs receive the early intervention services on their IFSPs that are consented to by their parents in a timely manner. IDE indicated that many of the forms IDE reviewed did not include the date(s) services were initiated (documentation issue), and was not an indication of untimely provision of services. IDE acknowledged the need to re-establish baseline data based on correction and review.</p> <p><b>Other:</b> The State's 30-day timely standard begins with the initial IFSP meeting date. The Part C regulations at 34 CFR §§303.342(e) and 303.344(f)(1) require that the lead agency provide the early intervention services that are consented to by the parent as soon as possible after the IFSP meeting. Under Indicator #1, the State must provide data not only on the timeliness of Part C services provided to children initially referred to Part C but to all eligible children with IFSPs once a parent consents to the provision of early intervention services under 34 CFR §303.404(a)(2).</p>	<p><b>Noncompliance:</b> The State must ensure that this identification is corrected within one year of its the APR, due February 1, 2007, that demonstrate compliance with this requirement. The State should review and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p> <p><b>Other:</b> The State must revise its timely standard and may use a starting point consistent with the Part C regulations, such as when a parent consents to the provision of early intervention services under 34 CFR §303.404(a)(2). Alternatively, the State may use "IFSP initiation date" as its standard but must monitor the implementation of this standard to ensure that this date is reasonable when applied to individual IFSPs. The State must submit its revised standards and data in the FFY 2005 APR due February 2, 2007.</p>
<p><b>Indicator 7:</b> Percent of eligible infants and toddlers with IFSPs for whom an evaluation and assessment and an initial IFSP meeting were conducted within Part C's 45-day</p>	<p><b>Noncompliance:</b> The State reported an 89% level of compliance for Indicator #7 in the SPP, specifically the requirement at 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a), that an evaluation and assessment and initial IFSP meeting is conducted within 45 days for all children referred to Part C.</p>	<p><b>Noncompliance:</b> The State must ensure that this identification is corrected within one year of its February 1, 2007, that demonstrate compliance with this requirement. The State should review</p>

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<p>and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p> <p><b>Other:</b> In the FFY 2005 APR, due February 1, 2007, the State should not include in the calculation children for whom the State has identified the cause for the delay as exceptional family circumstances documented in the child's record. The State must include in its discussion of data, the numbers it used to determine its calculation under this Indicator and report separately the number of documented delays attributable to family circumstances.</p>	<p>and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p> <p><b>Other:</b> In the FFY 2005 APR, due February 1, 2007, the State should not include in the calculation children for whom the State has identified the cause for the delay as exceptional family circumstances documented in the child's record. The State must include in its discussion of data, the numbers it used to determine its calculation under this Indicator and report separately the number of documented delays attributable to family circumstances.</p>	<p>and, if necessary revise, its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR, that demonstrate full compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p> <p><b>Other:</b> In the FFY 2005 APR, due February 1, 2007, the State should not include in the calculation children for whom the State has identified the cause for the delay as exceptional family circumstances documented in the child's record. The State must include in its discussion of data, the numbers it used to determine its calculation under this Indicator and report separately the number of documented delays attributable to family circumstances.</p>
<p>timeline.</p> <p>(20 USC 1416(a)(3)(B) and 1442)</p>	<p><b>Other:</b> In the State's computation of its baseline data for this compliance indicator, the State may have included in its reported percentage children for whom reasonable delays were attributable to exceptional family circumstances documented in the child's record.</p>	<p><b>Other:</b> In the State's computation of its baseline data for this compliance indicator, the State may have included in its reported percentage children for whom reasonable delays were attributable to exceptional family circumstances documented in the child's record.</p>
<p><b>Indicator 8:</b></p> <p>Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:</p> <p>A. IFSPs with transition steps and services</p> <p>B. Notification to LEA, if child potentially eligible for Part B; and</p> <p>C. Transition conference, if child potentially eligible for Part B.</p> <p>(20 USC 1416(a)(3)(B) and 1442)</p>	<p><b>Noncompliance:</b></p> <p>8A - The State reported a 68% level of compliance for Indicator #8A in the SPP, specifically the requirement at 34 CFR §§303.148(b)(4) and 303.344(h), that IFSPs include a transition plan with steps and services.</p> <p>8C - The State reported a 46% level of compliance for Indicator #8C in the SPP, specifically the requirement at 34 CFR §303.148(b)(2)(i), that for all children receiving early intervention services under Part C and potentially eligible under Part B, a transition conference is convened, with the approval of the family, between the lead agency, the family, and the LEA at least 90 days and, at the discretion of the parties, up to nine months, before the child is eligible for preschool services.</p> <p><b>Other:</b></p> <p>(1) 8B: In the computation of its baseline data for indicator #8B, the State reported on the total number of LEA representatives participating in transition conferences, divided by the total number of children exiting Part</p>	<p><b>Noncompliance:</b></p> <p>8A &amp; 8C: The State must ensure that noncompliance reported under Indicators 8A and 8C is corrected within one year of its identification and include data for Indicators 8A and 8C in the APR, due February 1, 2007, that demonstrate compliance with these respective requirements. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p> <p><b>Other:</b></p> <p>(1) 8B: In reporting its performance on this indicator in the APR due by February 1, 2007, the State must include the required data and calculations, and report, under 34 CFR</p>

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<p><b>Indicator 11:</b> Percent of fully adjudicated due process hearing requests that were fully adjudicated within the applicable timeline. (20 U.S.C. 1416(a)(3)(B) and 1442)</p>	<p>C who were potentially eligible for Part B, which is a Part B requirement under 34 CFR §300.132(c). In the Part C SPP in Indicator #8B, the State must report, under 34 CFR §303.148(b)(1), on the number of children for whom the lead agency appropriately notified the LEA where the child resides (and not whether the LEA representative participated in the transition conference).</p> <p>(2) 8C: In the State's computation of its baseline data for this compliance indicator, the State may have included children for whom the family did not provide approval to conduct the conference or for whom the conference was not timely held due to documented exceptional family circumstances.</p>	<p>§303.148(b)(1), on the number of children for whom the lead agency appropriately notified the LEA where the child resides (and not whether the LEA representative participated in the transition conference). Failure to include this information will affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p> <p>(2) 8C: In the FFY 2005 APR, due February 1, 2007, the State should not include in the calculation children for whom the State has identified the lack of a timely conference attributable either to exceptional family circumstances documented in the child's record or lack of family approval. The State must include in its discussion of data, the numbers it used to determine its calculation under this Indicator and report separately the number of documented delays attributable to family circumstances and the number of children for whom the family did not provide approval to conduct the conference.</p>
	<p><b>Noncompliance:</b> Although the State indicated that it has adopted the Part C due process hearing procedures under 34 CFR §303.420(b), the State reported on pages 70 and 71 of the SPP that it allows continuances to be granted at the request of a party. As OSEP noted in the State's original SPP submission, under 34 CFR §303.423(b), when a State chooses to implement due process procedures under Part C, the hearing decision must be rendered within 30 days of the request for a hearing and no extensions or continuances are allowed. Given that the State indicated in its SPP that it has chosen to implement due process hearing procedures under Part C, a 30-day timeline applies to issuing due process hearing decisions.</p>	<p><b>Noncompliance:</b> The State must by June 1, 2006 either revise and submit its due process timeline policy to clarify that there are no allowable extensions or submit a written assurance confirming that it is using the 30-day timeline (without any continuances or extensions) under 34 CFR §303.423(b) in order to receive its FFY 2006 Part C funds.</p>

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<p><b>Indicator 13:</b> Percent of mediations held that resulted in mediation agreements. (20 U.S.C. 1416(a)(3)(B) and 1442)</p>	<p><b>Other:</b> (1) The State included targets and improvement activities regarding mediation; however, baseline data indicated that the total number of mediations requested was fewer than ten. OSEP guidance on developing the SPP indicated that targets and improvement activities were not needed until the total number of mediations requested totaled ten or greater.  (2) The State established a target of 90% for mediation. The consensus among mediation practitioners is that 75-85% is a reasonable rate of mediations that result in agreements and is consistent with national mediation success rate data. A higher mediation goal, while appropriate for some States, may not be appropriate if it results in agreements that are not voluntarily implemented. It is better to have a lower percentage of viable, implemented agreements than a higher percentage of agreements, some of which are not voluntarily implemented.</p>	<p><b>Other:</b> (1) The State may remove the targets and improvement activities related to mediation in the APR, due February 1, 2007, if the number of mediations for FFY 2005 is less than 10. In a reporting period when the number of mediations reaches ten or greater, the State must develop targets and improvement activities, and report them in the corresponding APR.  (2) If the State is required to establish a target in a future APR because it meets the threshold of ten or more mediation requests, the State may want to review its target to determine if an adjustment is needed and submit the revised target in that APR.</p>